

TESTIMONY
BEFORE THE
SENATE GOVERNMENT OPERATIONS COMMITTEE

By
Representative Les Aspin
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Mr. Chairman, I would like to endorse proposals before this committee to establish a standing committee to watch over the intelligence community. I make that endorsement with a major caveat, however.

A committee is no cure-all for control of the community. Many reforms are required. We in Congress will be deluding ourselves if we think we can vote for a committee and then walk away, satisfied that all's now well with the world. A committee is part of the solution; a committee is not the solution.

This is not the forum for discussing the range of changes needed in the executive. The House Select Committee is framing its recommendations and they will be published in a matter of days. The Senate Select Committee will be reporting in a few weeks.

I will focus today on three key issues: what are the limitation on a congressional committee, how should a committee be organized, and what role should a standing committee play in covert operations.

LIMITS ON A CONGRESSIONAL COMMITTEE

The public should be aware that any standing intelligence committee will begin life with three heavy weights tied around its neck.

First, many congressional committees have a way of becoming advocates of the programs they are supposed to oversee. We all know of committees famed for taking care of their constituency. The overseer becomes, instead, the ally.

The Senate and House have each had small subcommittees which for years were supposed to keep an eye on the intelligence community. But in two decades the watchdogs never barked. It has been suggested that rotating members on and off a standing committee might lessen the likelihood of capture. But then the members would lack expertise.

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Second, the members of an intelligence committee will be suffering from limited knowledge. Their knowledge, in fact, will be limited largely to what the intelligence agencies tell them.

An intelligence committee will be quite different from other committees. The Education Committee, for example, hears from teachers, parents and superintendents and doesn't have to rely solely on the Office of Education to tell it if a program is working or not.

Environmental groups flock to the Interior Committee when they feel some administration policy is shafting them. Who is going to complain to a congressional intelligence committee? The Russian Ambassador?

Both the problem of the captive committee and the uninformed committee will be exacerbated for an intelligence committee because much of its work will be done behind closed doors where critics won't be able to point up foibles like they can with other committees.

Third, after the CIA's skeletons have been exposed, the dust has settled and the CIA is no longer Page One news, many members are likely to lose interest in the subject -- including those assigned to an intelligence committee. Closed door meetings don't allow members to make speeches or issue press releases or titillate their constituents with inside stories.

Service on an intelligence committee may be a chore bringing no credit and less visibility.

None of this is to argue against formation of a standing committee. The point is simply that Congress must realize that when we seek to reform and improve the intelligence community, a congressional committee is supplemental and not elemental.

Having begun on a sour note by criticizing our own institutions here on Capitol Hill, let me now turn to the question of how to organize an oversight committee.

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ORGANIZATION OF COMMITTEE

The first point to be decided is whether we want a single joint committee or parallel committees in the two houses. I opt for the latter. I think my earlier remarks about captive committees makes the reason clear. With separate committees there are twice as many elements that must be captured. With separate committees there is at least some semblance of competition.

The next question is the jurisdiction and authority of the committees:

-- they will need oversight authority which should extend into every nook and cranny of the intelligence community, both foreign and domestic. That authority can and should be shared with current standing committees. Then if the intelligence committees should become captives, others will still have the opportunity to keep watch over the community.

-- the intelligence committees will also need legislative authority and budget authority including power over an authorization bill that should cover not only the independent agencies like the CIA, but also the intelligence components of the military services, the State Department, the FBI.

It might appear a little cumbersome to have an intelligence committee dealing with just a segment of the State Department or FBI. But that authority is needed if you agree with me that one of the serious problems of the intelligence community today is the fact that nobody in Congress or in the Executive is in overall control of intelligence; it is a fragmented community that too often works at cross purposes or wastes time and money as two agencies duplicate one another's work or grind out a product for which there is no demand. One way to correct this is to put one pair of committees in charge.

If the committees lack the power of the purse, we will actually be in an even worse position than in the past. For the past few decades we have had ineffective subcommittees, but at least they held the purse strings and could theoretically have wielded that authority.

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COVERT OPERATIONS

The next major issue is how the committees should deal with covert operations. Should the committees be notified in advance? Should the committees be empowered to veto planned operations?

Many reformers suggest that the committees be given real teeth and required to pass on all covert operations. But most members of Congress are reluctant to take a position on behalf of their colleagues. It's one thing to cast a vote on the floor as one of 435 members or one of 100; it's something else to be told to operate behind closed doors and make a decision for the rest of your colleagues.

I'm sure there are many in the Executive Branch who would like to see the Congress have veto power for exactly the same reasons that I'm sure most members of Congress don't want that authority -- because it gives future administrations an out. If an operation goes awry, the executive can point to Congress and say -- as it did with the Gulf of Tonkin resolution -- "but the members authorized us to do that." Members also know they could face the reverse charge: a stern administration saying, "The United States is in trouble in Majnoonistan today because Congress wouldn't let us launch a little covert operation."

Such reluctance is not a political forecast; it's political history. For years the CIA has been telling those subcommittees about their covert operations, although usually only after they began. The House Select Committee asked CIA Director William Colby what happened when one of the committees objected. Did that halt an operation? Colby was stunned. The question had never come up before. The subcommittees preferred not to get involved. Deniability was not invented by the Nixon Administration.

If a committee is to have veto power, then its political composition becomes terribly important. A committee filled with radicals probably wouldn't allow CIA agents to do anything more violent.

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than play darts in the basement of CIA headquarters. Pack the committee with hawkish conservatives and you're back to square one. A congressional veto over covert operations is a very unpromising idea.

Many reformers also suggest that Congress can control covert operations through control of the budget. As I said before, I think any congressional committee should have the power of the purse. Still in intelligence there is not necessarily a correlation between money and mischief. In Thailand a CIA agent tampered with politics by sending one forged letter. The cost to the U.S. Treasury: one postage stamp. The cost to U.S. foreign policy: continuing embarrassment. Budget control is no panacea.

Covert actions must be controlled primarily from within the executive branch. To begin, the 40 Committee should be regulated by law rather than executive whim. Each member should be required to assess in writing every proposed covert operation, analyzing the risks involved, the benefits of success, the dangers of failure and possible alternative ways of accomplishing the objective. History shows that when men are required to write their own reports, they think more clearly of the consequences than if they are simply asked to initial a committee report.

A congressional committee can supplement these controls. Any intelligence committee must be told about all planned operations in advance -- the entire committee, not just the leaders as in the past. While no approval or disapproval would be voted, individual members could send their own assessments to the President.

No doubt a lot of members would simply write up a list of reservations to cover themselves in case the operation went wrong. But that is not all bad. It is a good idea to have advice reaching the President from a few people who have a bias for negativism. There is too much me-tooism in the executive branch already.

The purpose of these changes and others under discussion by the House Committee is to build as many checks and questions as possible into the decision-making process so that no covert operation will be undertaken unless the arguments in favor of it are overwhelming.

Mr. Chairman and senators, I've touched on only three issues here today. There are many others. I will be happy to expand these points or